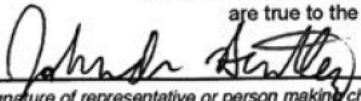


UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 32-CA-263367	Date Filed 07-22-2020

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer McDonald's/McDonald's USA, LLC, Joint Employers	b. Tel. No. (b) (6), (b) (7)(C)
	c. Cell No.
	f. Fax. No.
d. Address (Street, city, state, and ZIP code) 2040 N. 1st St., San Jose, CA 95131-2001	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail
	h. Number of workers employed 30
i. Type of Establishment (factory, mine, wholesaler, etc.) fast food restaurant	j. Identify principal product or service fast food
<p>The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.</p>	
<p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)</p> <p>See Attachment</p>	
<p>3. Full name of party filing charge (if labor organization, give full name, including local name and number)</p> <p>SEIU National Fast Food Workers Union</p>	
4a. Address (Street and number, city, state, and ZIP code) 1545 Wilshire Blvd., Suite 305, Los Angeles, CA 90017	<p>4b. Tel. No.</p> <p>4c. Cell No. (b) (6), (b) (7)(C)</p> <p>4d. Fax No.</p> <p>4e. e-mail</p>
<p>5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)</p> <p>Service Employees International Union</p>	
<p>6. DECLARATION</p> <p>I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p> <p> Johna Bentley, Attorney (signature of representative or person making charge) (Print/type name and title or office, if any)</p> <p>Address 1800 Mass. Ave. NW, Washington DC 20036 Date 7-22-20</p>	
<p>Tel. No. 202-730-7353</p> <p>Office, if any, Cell No.</p> <p>Fax No.</p> <p>e-mail</p>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

Attachment

On or about (b) (6), (b) (7)(C) 2020, McDonald's violated the Act by discharging employee (b) (6), (b) (7)(C) in retaliation for engaging in protected concerted activity and union activity. Over the past few months, (b) (6), (b) (7)(C) publicly organized and participated in (b) (6), (b) (7)(C) strikes over COVID-19 safety issues, including McDonald's failure to provide employees sufficient masks, soap, and gloves, and failure to ensure social distancing. (b) (6), (b) (7)(C) also raised other safety issues with management, including their failure to provide adequate supplies or equipment. (b) (6), (b) (7)(C) also openly and actively participated in the Fight for Fifteen campaign and supported organizing a union at (b) (6), (b) (7)(C) workplace. McDonald's asserted a pretextual reason for discharging (b) (6), (b) (7)(C) but in reality fired (b) (6), (b) (7)(C) for (b) (6), (b) (7)(C) advocacy for workers' safety and (b) (6), (b) (7)(C) organizing for better working conditions and union representation. (b) (6), (b) (7)(C) has heard from another worker that management has compiled a blacklist of union supporters, whom they call (b) (6), (b) (7)(C) and whom management intends to fire.

REGION 32 – DOCKET SHEET (Charge Against Employer)

Case Name:	McDonald's/McDonald's USA, LLC, Joint Employers 32-CA-263367
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Method of Receipt:	Visit	Written/Mail	Electronic/Fax	E-Filed: 1-2772167731
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IO Assisted (Choose one)	Yes	<input checked="" type="radio"/>	No	<input type="radio"/>
IO Inquiry # on Charge (Choose one)	Yes	<input type="radio"/>	No	<input checked="" type="radio"/>
IO Notes (Choose one)	Yes	<input type="radio"/>	No	<input checked="" type="radio"/>

Assigned to:	Supervisor	Kwon	Agent	Amy
---------------------	------------	------	-------	-----

Dispute Location	City	San Jose,	State	CA
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Bargaining Status (Check One)

Existing Contract		None	✓
Organizational Campaign		Seeking Initial Contract	
Seeking Successor Contract			

No. of 8(a)(3) Discriminatees	1
--------------------------------------	---

Include Back Pay Paragraph (Choose one) (Charging Party only)	Yes	<input type="radio"/>	No	<input checked="" type="radio"/>
Include Spanish Explanation & Assistance Paragraphs (Choose one) (Charging Party only)	Yes	<input type="radio"/>	No	<input checked="" type="radio"/>

Priority (Choose one)	<input type="radio"/> High Priority (NxGen 2)	<input checked="" type="radio"/> Highest Priority (NxGen 3)
------------------------------	---	---

Agenda Date: 9/8/2020 <small>(Make Determination Date in NxGen)</small>	+	Disposition Date: 9/18/2020 <small>(Dispose of Allegation Date in NxGen)</small>	+
---	---	--	---

Possible 10(j) Case (Choose one)	Yes	<input type="radio"/>	No	<input checked="" type="radio"/>
Date & Time 10(j) Screen				

Related Cases (Relate on Case Level)	32-CA-263284; 7/20/20; (b) (5), (b) (7)(C)
--	--

Initial if OK to Docket Amended Charge	
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Comments:	Organizing is national and disbursed. (b) (5)
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Section	Allegation	Applicable?
8(a)(1)	Coercive Actions (Surveillance, etc)	
	Coercive Rules	
	Coercive Statements (Threats, Promises of Benefits, etc.)	x
	Concerted Activities (Retaliation, Discharge, Discipline) (*)	x
	Denial of Access	
	Discharge of Supervisor (Parker-Robb Chevrolet)	
	Interrogation (including Polling)	
	Lawsuits	
	Weingarten	
8(a)(2)	Assistance	
	Domination	
	Unlawful Recognition	
8(a)(3)	Changes in Terms and Conditions of Employment	
	Discharge (including Layoff and Refusal to Hire (not salting)) (*)	
	Discipline	
	Lockout (*)	
	Refusal to Consider/Hire Applicant (salting only) (*)	
	Refusal to Hire Majority (*)	
	Refusal to Reinstatement Employee/Striker (e.g. Laidlaw) (*)	
	Retaliatory Lawsuit	
	Shutdown or Relocate/Subcontract Unit Work (*)	
	Union Security Related Actions (*)	
8(a)(4)	Changes in Terms and Conditions of Employment	
	Discharge (including Layoff and Refusal to Hire)	
	Discipline	
	Refusal to Reinstatement Employee/Striker	
	Shutdown or Relocate/Subcontract Unit Work	
8(a)(5)	Alter Ego	
	Failure to Sign Agreement	
	Refusal to Bargain/Bad Faith Bargaining (including Surface Bargaining/Direct Dealing)	
	Refusal to Furnish Information	
	Refusal to Recognize	
	Repudiation/Modification of Contract [Sec 8(d)/Unilateral Changes] (*)	
	Shutdown or Relocate (e.g. First National Maint.) Subcontract Work (*)	
8(e)	All Allegations against an Employer	

(*) May require adding the Back Pay Statement to Charging Party Letter



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

July 22, 2020

(b) (6), (b) (7)(C)

MCDONALD'S/MCDONALD'S
USA, LLC, JOINT EMPLOYERS
2040 N. 1ST STREET
SAN JOSE, CA 95131

**Re: McDonald's/McDonald's USA, LLC,
Joint Employers
Case 32-CA-263367**

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney AMY BERBOWER whose telephone number is (510)671-3016. If this Board agent is not available, you may contact Regional Attorney CHRISTY KWON whose telephone number is (510)671-3020.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

July 22, 2020

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

July 22, 2020

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

32-CA-263367

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**MCDONALD'S/MCDONALD'S USA, LLC,
JOINT EMPLOYERS**

Charged Party

and

**SEIU NATIONAL FAST FOOD WORKERS
UNION**

Charging Party

Case 32-CA-263367

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on July 22, 2020, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

MCDONALD'S/MCDONALD'S
USA, LLC, JOINT EMPLOYERS
2040 N. 1ST STREET
SAN JOSE, CA 95131

July 22, 2020

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



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July 22, 2020

SEIU NATIONAL FAST
FOOD WORKERS UNION
1545 WILSHIRE BLVD., STE 305
LOS ANGELES, CA 90017

**Re: McDonald's/McDonald's USA, LLC, Joint Employers
Case 32-CA-263367**

Dear Sir or Madam:

The charge that you filed in this case on July 22, 2020 has been docketed as case number 32-CA-263367. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney AMY BERBOWER whose telephone number is (510)671-3016. If this Board agent is not available, you may contact Regional Attorney CHRISTY KWON whose telephone number is (510)671-3020.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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July 22, 2020

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

cc: JOHND A BENTLEY, ESQ.
 SERVICE EMPLOYEES
 INTERNATIONAL UNION
 1800 MASSACHUSETTS AVE. NW
 WASHINGTON, DC 20036-1806

From: [Johnda Bentley](#)
To: [Berbower, Amy](#)
Subject: Re: McDonald's/McDonald's USA, LLC, Joint Employers - NLRB Case 32-CA-263367
Date: Tuesday, July 28, 2020 2:58:24 PM

Thank you for letting me know, I did not realize this was not done yet. I will get back to you today.

On Tue, Jul 28, 2020 at 12:26 PM Berbower, Amy <Amy.Berbower@nlrb.gov> wrote:

Ms. Bentley,

I haven't received any notice of new representation in this case. The deadline to complete the Union's presentation of evidence is one week away, so I need to get affidavits scheduled for the Union's witnesses as soon as possible. Please let me know as soon as possible either the contact information for the witnesses or who your local counsel will be.

Thank you,

Amy Berbower, Field Attorney

National Labor Relations Board, Region 32

1301 Clay St. #300N

Oakland, CA 94612

Direct Line: 510-671-3016

From: Johnda Bentley <johnda.bentley@seiu.org>
Sent: Friday, July 24, 2020 3:20 PM
To: Berbower, Amy <Amy.Berbower@nlrb.gov>
Subject: Re: McDonald's/McDonald's USA, LLC, Joint Employers - NLRB Case 32-CA-263367

SEIU is planning on moving this over to an attorney in California, so you should expect a notice of appearance soon. Thank you.

On Thu, Jul 23, 2020 at 7:28 PM Berbower, Amy <Amy.Berbower@nlrb.gov> wrote:

Ms. Bentley,

I have been assigned to investigate the unfair labor practice charge that you filed with our office alleging that the above named Employer terminated employee (b) (6), (b) (7)(C) [REDACTED] from its San Jose store because [REDACTED] engaged in protected concerted and Union activity.

I write this email to notify you that all evidence that the Charging Party intends to provide in connection with this charge, including witnesses for phone affidavits, documentary evidence, and position statements, is due by the close of business on Tuesday, August 4, 2020. Therefore, please contact me as soon as possible regarding the witnesses you intend to produce for Board affidavits and to schedule those affidavits. Please also provide me with the names, contact information, and a brief summary of what you expect each witness to testify about.

In advance of the affidavits, please send me copies of any documents relating to the charge, including any termination paperwork, policies or communications with the Employer related to this matter.

Please note that failure to contact me to schedule affidavits, or failure to submit all evidence in support of your charge by the above date, may result in the dismissal of this charge for lack of cooperation and/or insufficient evidence. If you have any questions, please let me know as soon as possible. Due to the current closure of our office, the best way to reach me is by e-mail, although I will get voicemails left at my office number.

Thank you,

Amy Berbower, Field Attorney

National Labor Relations Board, Region 32

1301 Clay St. #300N

Oakland, CA 94612

Direct Line: 510-671-3016

Click [here](#) to E-FILE documents, charges, and petitions.

Please note: Effective October 21, 2019, parties to unfair labor practice or representation cases processed in NLRB Regional Offices must submit all written statements, correspondence, position statements, documentary or any other evidence through the Agency's electronic filing system (E-Filing).

Click [here](#) to E-FILE documents, charges, and petitions as a Guest.

Or, Create a Profile by Clicking on the NLRB's [NEW My Account Portal Link](#) to

- Create an account or access your existing E-Filing account
- View your E-Filing History
- E-File documents in a case or inquiry to which you are a party
- Manage the contact information associated with your account

--

Jonnee Bentley

Associate General Counsel

Service Employees International Union (SEIU)

1800 Massachusetts Avenue, NW

Washington, DC 20036

(202) 730-7353 Office

(202) 406-0453 Cell

--

Jonnee Bentley

Associate General Counsel

Service Employees International Union (SEIU)

1800 Massachusetts Avenue, NW

Washington, DC 20036
(202) 730-7353 Office
(202) 406-0453 Cell

From: [BJ Chisholm](#)
To: [Berbower, Amy](#)
Cc: johnda.bentley@seiu.org; [Corinne Johnson](#)
Subject: RE: McDonald's/McDonald's USA, LLC, Joint Employers - NLRB Case 32-CA-263367
Date: Tuesday, July 28, 2020 5:39:27 PM

Hi Amy,

Thanks for your voice message. I will talk things over with folks on my end and give you a call later this afternoon or tomorrow morning re: next steps.

Best,
BJ

From: BJ Chisholm
Sent: Tuesday, July 28, 2020 1:12 PM
To: Amy.Berbower@nlrb.gov
Cc: johnda.bentley@seiu.org; Corinne Johnson <cjohnson@altshulerberzon.com>
Subject: FW: McDonald's/McDonald's USA, LLC, Joint Employers - NLRB Case 32-CA-263367

Hi Amy,

Corinne Johnson and I will be representing the charging party in this manner and are filing notices of appearances today. Please note that we will also be filing an amended charge today to correct the employer's name (updating McDonald's to McDonald's of California).

We have reviewed your correspondence below and are collecting the information requested. Please note that the fired worker will need (b) (6), (b) (7)(C) [REDACTED], if you are not in a position to do (b) (6), (b) (7)(C) [REDACTED]. Can you advise on whether (b) (6), (b) (7)(C) [REDACTED] are necessary for this?

We anticipate that, in addition to the fired worker, at least (b) (6), (b) (7)(C) [REDACTED]. Some of them may also need (b) (6), (b) (7)(C) [REDACTED].

We will obviously work to set up the interviews as soon as possible, but would like to request a short extension of the August 4 deadline. Assuming that we are able to set up interviews for this week and next, could you extend the deadline for the charging party's evidence to August 14?

Thanks in advance,
BJ Chisholm

Barbara J. Chisholm

Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Cell: (415) 377-2379
bchisholm@altber.com

----- Forwarded message -----

From: **Berbower, Amy** <Amy.Berbower@nlrb.gov>
Date: Thu, Jul 23, 2020 at 7:28 PM
Subject: McDonald's/McDonald's USA, LLC, Joint Employers - NLRB Case 32-CA-263367
To: johnda.bentley@seiu.org <johnda.bentley@seiu.org>

Ms. Bentley,

I have been assigned to investigate the unfair labor practice charge that you filed with our office alleging that the above named Employer terminated employee (b) (6), (b) (7)(C) from its San Jose store because (b) (6), (b) (7)(C) engaged in protected concerted and Union activity.

I write this email to notify you that all evidence that the Charging Party intends to provide in connection with this charge, including witnesses for phone affidavits, documentary evidence, and position statements, is due by the close of business on Tuesday, August 4, 2020. Therefore, please contact me as soon as possible regarding the witnesses you intend to produce for Board affidavits and to schedule those affidavits. Please also provide me with the names, contact information, and a brief summary of what you expect each witness to testify about.

In advance of the affidavits, please send me copies of any documents relating to the charge, including any termination paperwork, policies or communications with the Employer related to this matter.

Please note that failure to contact me to schedule affidavits, or failure to submit all evidence in support of your charge by the above date, may result in the dismissal of this charge for lack of cooperation and/or insufficient evidence. If you have any questions, please let me know as soon as possible. Due to the current closure of our office, the best way to reach me is by e-mail, although I will get voicemails left at my office number.

Thank you,

Amy Berbower, Field Attorney
National Labor Relations Board, Region 32
1301 Clay St. #300N
Oakland, CA 94612
Direct Line: 510-671-3016

Click [here](#) to E-FILE documents, charges, and petitions.

Please note: Effective October 21, 2019, parties to unfair labor practice or representation cases processed in NLRB Regional Offices must submit all written statements, correspondence, position statements, documentary or any other evidence through the Agency's electronic filing system (E-Filing).

Click [here](#) to E-FILE documents, charges, and petitions as a Guest.
Or, Create a Profile by Clicking on the NLRB's [NEW My Account Portal Link](#) to

- Create an account or access your existing E-Filing account
- View your E-Filing History
- E-File documents in a case or inquiry to which you are a party
- Manage the contact information associated with your account

--

Jonnee Bentley
Associate General Counsel
Service Employees International Union (SEIU)
1800 Massachusetts Avenue, NW
Washington, DC 20036
(202) 730-7353 Office
(202) 406-0453 Cell

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

SEIU National Fast Food Workers Union

and

McDonald's/McDonald's USA, LLC

CASE 32-CA-263367

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

SEIU National Fast Food Workers Union

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Corinne F. Johnson

MAILING ADDRESS: 177 Post Street, Suite 300, San Francisco, CA 94108

E-MAIL ADDRESS: cjohnson@altshulerberzon.com

OFFICE TELEPHONE NUMBER: 415-421-7151

CELL PHONE NUMBER: 303-929-4607 FAX: 415-262-8064

SIGNATURE: 

(Please sign in ink.)

DATE: 7/28/20

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

SEIU National Fast Food Workers Union
and
McDonald's/McDonald's USA, LLC

CASE 32-CA-263367

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

SEIU National Fast Food Workers Union


IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: <u>Barbara J. Chisholm</u>	
MAILING ADDRESS: <u>177 Post Street, Suite 300, San Francisco, CA 94108</u>	
E-MAIL ADDRESS: <u>bchisholm@altshulerberzon.com</u>	
OFFICE TELEPHONE NUMBER: <u>415-421-7151 ext. 329</u>	
CELL PHONE NUMBER: _____	FAX: <u>415-262-8064</u>
SIGNATURE: 	
(Please sign in ink.)	
DATE: <u>7/28/20</u>	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

ORAL WITHDRAWAL REQUEST FORM

Re: McDonald's/McDonald's USA, LLC, Joint Employers
Case 32-CA-263367 **Category:** 3

On Wednesday, July 29, 2020, in a telephone conversation, BJ Chisolm, the Charging Party's attorney, informed the undersigned board agent that that Charging Party desired to withdraw the above-referenced charge and authorized withdrawal on an oral basis.

/S/ AMY BERBOWER

Amy Berbower, Attorney

WITHDRAWAL REQUEST APPROVED

(DATE)

From: [Hardy-Mahoney, Valerie M.](#)
To: [Lafontaine, Alice](#)
Cc: [Hayden, Frances](#)
Subject: FW: FINAL PROCESSING, UNADJUSTED WITHDRAWAL, MCDONALDS, 32-CA-263367 (9 Days)
Date: Thursday, July 30, 2020 9:44:03 PM

Dear Alice:

I approved the withdrawal of this charge. Please issue the Dismissal Letter.

Val

From: Ventola, Catherine L. <Catherine.Ventola@nlrb.gov>
Sent: Wednesday, July 29, 2020 12:16 PM
To: Hardy-Mahoney, Valerie M. <Valerie.Hardy-Mahoney@nlrb.gov>
Subject: FINAL PROCESSING, UNADJUSTED WITHDRAWAL, MCDONALDS, 32-CA-263367

Hi Val,

I have sent you the task for this case, the Charging Party cannot meet deadlines. Also, this needs to be assigned to Lelia, (b) (6), (b) (7)(C). This employee is also represented by counsel, and Amy was less comfortable with (b) (6), (b) (7)(C) in presence of counsel. File looks good.

Cathy

From: [Cowen, William B.](#)
To: [Hardy-Mahoney, Valerie M.](#)
Cc: [Cahn, Stephanie](#)
Subject: RE: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination
Date: Thursday, July 30, 2020 8:51:03 PM

Hello Val:

I regret the delayed response. It has been a crazy day.

You may proceed with the withdrawal request as proposed.

Take care,

Bill

William B. Cowen
Regional Director
Region 21 | National Labor Relations Board
312 North Spring Street, 10th Floor
Los Angeles, CA 90012
213.634.6417 office
202.520.4933 cell
213.894.2778 fax

From: Hardy-Mahoney, Valerie M. <Valerie.Hardy-Mahoney@nlrb.gov>
Sent: Thursday, July 30, 2020 7:58 AM
To: Cowen, William B. <William.Cowen@nlrb.gov>
Subject: FW: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination

Good morning, Bill.

Regarding the charge in McDonalds, Case 32-CA-263367, involving a termination at a San Jose restaurant, the Union has requested withdrawal because (b) (5)

(b) (5)

(b) (5)

. May we process the withdrawal request?

Best,

Val

From: Doyle, John D. <John.Doyle@nlrb.gov>
Sent: Thursday, July 30, 2020 6:22 AM
To: DG-Regional Directors (R) <ML-RegionalDirectors@nlrb.gov>; ML-Field Managers & Supervisors (R) <ML-FieldManagers&Supervisors@nlrb.gov>

Cc: ML-HQ-Ops Management <ML-HQ-Operations@nrlb.gov>

Subject: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination

Charges have been filed by various individuals against McDonald's USA and franchisee restaurants alleging that they violated the Act by threatening or undertaking reprisal for strikes raising, among other issues, the COVID-19 pandemic. These charges are currently pending in Regions 13, 21, and 32 as follows:

Case Number



13-CA-262584

21-CA-263309

32-CA-263284

32-CA-263367

(b) (5)



Assistant General Counsel Elizabeth Kilpatrick will be the contacts for this coordination in Operations. If you have any additional questions, please contact AGC Kilpatrick.

Thank you.

John

From: [Ventola, Catherine L.](#)
To: [Cahn, Stephanie](#)
Subject: RE: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination
Date: Friday, September 25, 2020 5:02:00 PM

Thank you! Enjoy your weekend

From: Cahn, Stephanie <Stephanie.Cahn@nlrb.gov>
Sent: Friday, September 25, 2020 2:01 PM
To: Ventola, Catherine L. <Catherine.Ventola@nlrb.gov>
Subject: RE: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination

I think you're fine to go ahead and dismiss the charge.

From: Ventola, Catherine L. <[Catherine.Ventola@nlrb.gov](#)>
Sent: Friday, September 25, 2020 1:57 PM
To: Cahn, Stephanie <[Stephanie.Cahn@nlrb.gov](#)>
Subject: FW: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination

Hi Stephanie,

Happy Friday. (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Thank you,

Catherine Ventola
Supervisory Attorney

From: Doyle, John D. <[John.Doyle@nlrb.gov](#)>
Sent: Thursday, July 30, 2020 6:22 AM
To: DG-Regional Directors (R) <[ML-RegionalDirectors@nlrb.gov](#)>; ML-Field Managers & Supervisors (R) <[ML-FieldManagers&Supervisors@nlrb.gov](#)>
Cc: ML-HQ-Ops Management <[ML-HQ-Operations@nlrb.gov](#)>
Subject: McDonald's COVID-related strike cases, Regions 13, 21, and 32 - Case Coordination



Charges have been filed by various individuals against McDonald's USA and franchisee restaurants alleging that they violated the Act by threatening or

undertaking reprisal for strikes raising, among other issues, the COVID-19 pandemic. These charges are currently pending in Regions 13, 21, and 32 as follows:

Case Number

13-CA-262584
21-CA-263309
32-CA-263284
32-CA-263367

(b) (5)



Assistant General Counsel Elizabeth Kilpatrick will be the contacts for this coordination in Operations. If you have any additional questions, please contact AGC Kilpatrick.

Thank you.

John

Case Name: McDonald's/McDonald's USA, LLC, Joint Employers
Case No.: 32-CA-263367
Agent: Field Attorney AMY BERBOWER

CASEHANDLING LOG

[illegible]



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

July 31, 2020

JUSTIN D. MARTIN, ESQ.
JONES DAY
250 VESEY ST.
NEW YORK, NY 10281-1052

JONATHAN M. LINAS, ESQ., PARTNER
JONES DAY
77 W WACKER DR., STE. 3500
CHICAGO, IL 60601-1701

**Re: McDonald's/McDonald's USA, LLC,
Joint Employers
Case 32-CA-263367**

Dear Mr. Martin and Mr. Linas:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

cc: (b) (6), (b) (7)(C)
MCDONALD'S/MCDONALD'S USA,
LLC, JOINT EMPLOYERS
2040 N. 1ST STREET
SAN JOSE, CA 95131

JOHNDA BENTLEY, ATTORNEY
SERVICE EMPLOYEES
INTERNATIONAL UNION
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